

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services amends Chapter 109, “Child Care Centers,” and Chapter 170, “Child Care Services,” Iowa Administrative Code.

These amendments revise rules regarding child care providers who are currently allowed to operate child care facilities considered exempt from licensing by the Department of Human Services because the facilities are administered under contract with the Department of Education.

These amendments also modify rules regarding the definition of “child care” and pertaining to allowable exemptions. Programs previously exempt when operating under the Department of Education will no longer be allowable exemptions.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2073C** on August 5, 2015. The Department received no comments during the comment period. However, the Department reviewed the Notice of Intended Action and determined that a phrase in the definition of “Child care” had been inadvertently stricken. In Item 1, in the definition of “Child care,” paragraph “1” now reads as follows:

“1. An instructional program administered by a public or nonpublic school system accredited by the department of education or the state board of regents.”

The Council on Human Services adopted these amendments on September 9, 2015.

These amendments do not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 234.6.

These amendments will become effective January 1, 2016.

The following amendments are adopted.

ITEM 1. Amend rule **441—109.1(237A)**, definition of “Child care,” as follows:

“*Child care*” means the care, supervision, or guidance of a child by a person other than the parent, guardian, or custodian for periods of less than 24 hours per day per child on a regular basis in a place other than the child’s home, but does not include care, supervision, or guidance of a child by any of the following:

1. An instructional program administered by a public or nonpublic school system accredited by the department of education or the state board of regents ~~or a program provided under Iowa Code sections 279.49 and 280.3A.~~

2. to 14. No change.

ITEM 2. Amend **441—Chapter 170**, preamble, as follows:

PREAMBLE

The intent of this chapter is to establish requirements for the payment of child care services. Child care services are for children of low-income parents who are in academic or vocational training; or employed or looking for employment; or for a limited period of time, unable to care for children due to physical or mental illness; or needing protective services to prevent or alleviate child abuse or neglect. Services may be provided in a licensed child care center, a registered child development home, the home of a relative, the child’s own home, or a nonregistered family child care home, ~~or in a facility exempt from licensing or registration.~~

ITEM 3. Amend rule **441—170.1(237A)**, definition of “Provider,” as follows:

“*Provider*” means a licensed child care center, a registered child development home, a relative who provides care in the relative’s own home solely for a related child, a caretaker who provides care for a

child in the child's home, or a nonregistered child care home, or a child care facility which is exempt from licensing or registration.

ITEM 4. Rescind subparagraph **170.4(2)“a”(3)**.

ITEM 5. Rescind paragraph **170.4(3)“g.”**

ITEM 6. Reletter paragraphs **170.4(3)“h”** to **“j”** as **170.4(3)“g”** to **“i.”**

ITEM 7. Amend relettered paragraph **170.4(3)“i”** as follows:

i. Transgressions. If any person subject to the record checks in paragraph 170.4(3)~~“h”~~“g” or 170.4(3)~~“i”~~“h” has a record of founded child abuse, dependent adult abuse, a criminal conviction, or placement on the sex offender registry, the department shall follow the process for prohibition or evaluation defined at 441—subrule 110.7(3).

(1) and (2) No change.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/30/15.